

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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UNITED STATES OF AMERICA,

Case No. 06-CR-0249 (PJS)

Case No. 11-CV-3016 (PJS)

Plaintiff,

v.

ORDER

JON HENRY SWEENEY (1),

Defendant.

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Jon Henry Sweeney, pro se.

This matter is before the Court on defendant Jon Sweeney's motion for release to home confinement pursuant to Fed. R. App. P. 23(b). The motion is denied.

Under Fed. R. App. P. 23(b), a court that has decided not to release a prisoner in a habeas proceeding may, pending appeal of that decision, order that the prisoner be released or detained under conditions other than those in which the prisoner is currently confined. In deciding whether to grant such a request, courts consider whether the habeas petitioner raises a substantial claim and whether there are exceptional circumstances which render the grant of bail necessary to make the habeas remedy effective. *Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001).

Neither of these considerations counsel early release. Although the Court has granted Sweeney a certificate of appealability on one narrow issue, the Court does not believe that his claim is so substantial as to warrant early release. In addition, the Court does not find that there are extraordinary circumstances such that early release is necessary to make the habeas remedy effective. Sweeney is not seeking merely to be released from custody; he is seeking to have his criminal convictions overturned entirely. Such a result would, among other things, relieve him from a \$150,000 fine and a three-year term of supervised release, as well as the other collateral

consequences of a felony conviction. Under these circumstances, a habeas remedy would still be effective notwithstanding the possibility that Sweeney may be released from prison before his appeal is resolved.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT defendant Jon Sweeney's motion for release on bail [ECF No. 467] is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 19, 2013

s/Patrick J. Schiltz  
Patrick J. Schiltz  
United States District Judge